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CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
LOS ANGELES

BY \_\_\_\_\_

6 Attorneys for Plaintiff  
7 BRANDO ENTERPRISES, L.P.

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10  
11 BRANDO ENTERPRISES, L.P., a  
Delaware limited partnership,

12 Plaintiff,

13 vs.

14 MADONNA LOUISE CICCONE  
(p/k/a "Madonna"), an individual;  
15 BHAKTI TOURING, INC., a Nevada  
corporation; and DOES 1-10, inclusive,

16 Defendants.

17 Case No. **CV 12-8994** -GAF  
CVBKA  
**COMPLAINT FOR DAMAGES  
AND INJUNCTIVE RELIEF FOR:**

- 18 1. MISAPPROPRIATION OF  
RIGHT OF PUBLICITY  
(CALIFORNIA CIVIL CODE  
§ 3344.1);
- 19 2. FEDERAL TRADEMARK  
INFRINGEMENT / TRADE  
DRESS INFRINGEMENT /  
FALSE ASSOCIATION  
(15 U.S.C. § 1125(a)); and
- 20 3. FEDERAL TRADEMARK  
INFRINGEMENT - DILUTION  
(15 U.S.C. § 1125(c))

**DEMAND FOR JURY TRIAL**

21  
22 Plaintiff BRANDO ENTERPRISES, L.P. hereby alleges as follows:

**SUMMARY OF THE ACTION**

- 23 1. Plaintiff Brando Enterprises, L.P. ("Brando Enterprises" or "Plaintiff")  
24 owns all of the intellectual property rights, including all trademarks, privacy rights  
25 and publicity rights, of and associated with the legendary late actor Marlon Brando,  
26 whose name and identity have tremendous commercial value. In recent years,

1 Plaintiff has entered into licensing agreements with leading international brands and  
2 companies for the use of Marlon Brando's name, image and/or trademark, for which  
3 Plaintiff has received licensing revenues.

4        2. Defendants Madonna Louise Ciccone (professionally known as  
5 "Madonna") (herein, "Madonna") and Bhakti Touring, Inc. ("Bhakti Touring")  
6 (collectively, "Defendants") have used, and are continuing to use the likeness and  
7 image of Marlon Brando as set dressing during Madonna's 2012-2013 worldwide  
8 concert tour (the "Tour"), and are also using, or intend to use, Mr. Brando's likeness  
9 and image in recorded versions of the Tour for promotional purposes as well as in  
10 DVD and other media formats for distribution and sale.

11       3. Defendants did not obtain Plaintiff's permission to use Mr. Brando's  
12 likeness, image, identity, persona, publicity rights, privacy rights, trademarks and  
13 trade dress in the Tour, or in any recorded versions of the Tour, whether for  
14 distribution, sale or promotional purposes. In fact, Plaintiff's representative, Brand  
15 Sense Partners, LLC ("Brand Sense"), expressly ***refused*** to grant such rights to the  
16 Defendants when Defendants' licensing agent, CMG Worldwide, requested a  
17 license for rights. Plaintiff therefore seeks monetary damages, statutory damages,  
18 punitive damages, treble damages, attorneys' fees and costs, and a preliminary and  
19 permanent injunction to stop all future uses of Mr. Brando's name, image, identity,  
20 publicity rights, privacy rights, trademark rights, and other related rights by the  
21 Defendants.

## THE PARTIES

23       4. Plaintiff Brando Enterprises, L.P. is a Delaware limited partnership  
24 organized and existing under the laws of the State of Delaware, with its principal  
25 place of business located in the County of Los Angeles, State of California.

26       5. Plaintiff is informed and believes and based thereon alleges that  
27 defendant Madonna is, and at all times relevant hereto was, an individual who  
28 resides in Los Angeles, California and in New York, New York.

1       6. Plaintiff is informed and believes and based thereon alleges that  
2 defendant Bhakti Touring is, and at all times relevant hereto was, a corporation  
3 organized and existing under the laws of the State of Nevada, with its principal  
4 place of business located in the County of Los Angeles, State of California. Plaintiff  
5 is informed and believes that Bhakti Touring manages Madonna's tours and concert  
6 performances.

7       7. Plaintiff is informed and believes and based thereon alleges that the  
8 fictitiously-named Defendants sued herein as Does 1 through 10, and each of them,  
9 are in some manner responsible or legally liable for the actions, events, transactions  
10 and circumstances alleged herein. The true names and capacities of such  
11 fictitiously-named Defendants, whether individual, corporate, or otherwise, are  
12 presently unknown to Plaintiff, and Plaintiff will seek leave of Court to amend this  
13 Complaint to assert the true names and capacities of such fictitiously-named  
14 Defendants when the same have been ascertained. For convenience, each reference  
15 to a named Defendant herein shall also refer to Does 1 through 10. All defendants,  
16 including both the named defendants and those referred to herein as Does 1 through  
17 10, are sometimes collectively referred to herein as "Defendants."

18       8. Plaintiff is informed and believes and based thereon alleges that  
19 Defendants, and each of them, were and are the agents, licensees, employees,  
20 partners, joint-venturers, co-conspirators, owners, principals, and employers of the  
21 remaining Defendants, and each of them are, and at all times herein mentioned were,  
22 acting within the course and scope of that agency, license, partnership, employment,  
23 conspiracy, ownership, or joint venture. Plaintiff further is informed and believes  
24 and based thereon alleges that the acts and conduct herein alleged of each of the  
25 Defendants were known to, authorized by, and/or ratified by the other Defendants,  
26 and each of them.

27  
28

## **JURISDICTION AND VENUE**

2       9. This Court has subject matter jurisdiction over this case pursuant to  
3 28 U.S.C. §§ 1331 and 1138(a), and 15 U.S.C. § 1125(a), because it arises as a  
4 result of allegations of violations of the U.S. Lanham Act.

5       10. This Court has personal jurisdiction over Madonna because she is a  
6 resident of Los Angeles, California. This Court has personal jurisdiction over  
7 Bhakti Touring because its principal place of business is located in the State of  
8 California. Moreover, both Madonna and Bhakti Touring solicit, transact, and do  
9 business within the State of California, and through the conduct alleged herein, have  
10 caused injury to Plaintiff in California. Plaintiff's claims arise out of the conduct  
11 that gives rise to personal jurisdiction over Madonna and Bhakti Touring.

12        11.    Venue is proper in the Central District of California under 28 U.S.C.  
13 § 1391(b) because both Madonna and Bhakti Touring reside in this District.   Venue  
14 is also proper pursuant to 28 U.S.C. § 1391(b)-(d) because Bhakti Touring is subject  
15 to the Court's personal jurisdiction with respect to this civil action and thus is  
16 deemed to reside in this district.

## **THE MARLON BRANDO INTELLECTUAL PROPERTY RIGHTS**

18 12. On July 1, 2004, Marlon Brando died in Los Angeles, California.

19       13. Mr. Brando was a permanent resident of the State of California at the  
20 time of his death.

21       14. Upon his death, all of Mr. Brando's intellectual property rights,  
22 including his rights of privacy, rights of publicity, and existing trademarks  
23 (collectively, the "Brando IP Assets"), were transferred to Mr. Brando's estate. The  
24 estate added to the existing Brando IP Assets by obtaining certain U.S. Trademark  
25 registrations, described herein.

26        15. On October 3, 2005, the Los Angeles Superior Court ordered the  
27 transfer of all of the Brando IP Assets, including all trademarks, privacy rights and  
28 publicity rights, to the Brando Trust.

1       16. Effective as of January 1, 2009, all of the Brando IP Assets were  
2 transferred to plaintiff Brando Enterprises, which presently owns and controls the  
3 Brando IP Assets.

4       17. Among other Brando IP Assets, at all times relevant hereto Plaintiff has  
5 owned the following trademark registrations filed with the United States Patent and  
6 Trademark Office (“USPTO”):

7           a. U.S. Trademark Registration No. 3,930,041 for MARLON  
8 BRANDO for a wide variety of products and services;

9           b. U.S. Trademark Registration No. 3,939,084 for THE BRANDO  
10 for a wide variety of products and services; and

11           c. U.S. Trademark Serial No. 77/714608 for THE BRANDO for  
12 hotel, resort, restaurant, and spa services.

13       18. The name, image, identity, and persona of Marlon Brando are instantly  
14 recognized by the public and have substantial commercial value.

15       19. Plaintiff exercises careful consideration before permitting the  
16 commercial use of the Brando IP Assets to ensure that they are associated with high  
17 quality products, entertainment, services, and/or companies, and to ensure that the  
18 value of the Brando IP Assets are not diminished, either by association with  
19 products, entertainment, services, and/or companies that Plaintiff does not desire to  
20 support, and/or by over-saturation of the Brando IP Assets.

21       20. Plaintiff generally does not allow the Brando IP Assets to be used for  
22 commercial purposes, unless the compensation paid for such use is both  
23 commensurate with the value of the exploitation of the particular Brando IP Assets  
24 used, and sufficient to compensate Plaintiff for any potential diminution in value  
25 thereof from their exploitation.

26       21. The Brando IP Assets are highly valuable. Marlon Brando is regarded  
27 as one of the greatest actors of all time by film critics, motion picture trade  
28 associations, major media organizations, and the public. Marlon Brando won

1 numerous acting awards throughout his long and successful acting career including,  
 2 among many others, two Academy Awards for Best Actor in a Leading Role in  
 3 1955 for his portrayal of "Terry Malloy" in *On the Waterfront*, and in 1973 for his  
 4 portrayal of "Don Vito Corleone" in *The Godfather*. The following is a list of films  
 5 starring Marlon Brando during his 50 year career:

|    |  |  |
|----|--|--|
| 6  | The Score (2001)                           | Apocalypse Now (1979)                  |
| 7  | Free Money (1998)                          | The Countess From Hong Kong (1967)     |
| 8  |  |  |
| 9  | The Brave (1997)                           | The Appaloosa (1966)                   |
| 10 | The Island of Dr. Moreau (1996)            | The Chase (1966)                       |
| 11 | Don Juan DeMarco (1994)                    | Morituri (1965)                        |
| 12 | Christopher Columbus: The Discovery (1992) | Bedtime Story (1964)                   |
| 13 |  |  |
| 14 | The Freshman (1990)                        | The Ugly American (1963)               |
| 15 | A Dry White Season (1989)                  | Mutiny on the Bounty (1962)            |
| 16 |  |  |
| 17 | The Formula (1980)                         | One-Eyed Jacks (1961)                  |
| 18 | Apocalypse Now (1979)                      | The Fugitive Kind (1960)               |
| 19 | Superman (1978)                            | The Young Lions (1958)                 |
| 20 | The Missouri Breaks (1976)                 | Sayonara (1957)                        |
| 21 | Last Tango in Paris (1972)                 | The Teahouse of the August Moon (1956) |
| 22 |  |  |
| 23 | The Godfather (1972)                       | Guys and Dolls (1955)                  |
| 24 | The Nightcomers (1971)                     | Desirée (1954)                         |
| 25 |  |  |
| 26 | Burn! (1969)                               | On the Waterfront (1954)               |
| 27 | The Night of the Following Day (1968)      | The Wild One (1953)                    |
| 28 |  |  |

|   |                                       |                                 |
|---|---------------------------------------|---------------------------------|
| 1 | Good Grief It's Candy (1968)          | Julius Caesar (1953)            |
| 2 | Reflections in a Golden Eye<br>(1967) | Viva Zapata! (1952)             |
| 3 | Woman Times Seven (1967)              | A Streetcar Named Desire (1951) |

5        22. Among many other honors and awards, Marlon Brando received a Star  
 6 on the "Hollywood Walk of Fame" located at 1777 Vine Street in Hollywood,  
 7 California. Mr. Brando also was awarded the Golden Globe Award for World Film  
 8 Favorite, Male, for 1955, 1972 and 1973, respectively.

9        23. The American Film Institute ("AFI") periodically surveys more than  
 10 1,500 leaders throughout the film industry to determine their collective opinion  
 11 regarding the greatest acting legends of all time, and also the greatest motion  
 12 pictures of all time. According to the AFI's latest survey, Marlon Brando ranks  
 13 fourth (4th) on the list of the All-Time Greatest Male Acting Legends. Moreover,  
 14 four of the films in which Mr. Brando starred rank within AFI's Top 100 of all-time  
 15 greatest motion pictures: *The Godfather* (#2), *On the Waterfront* (#19), *Apocalypse*  
 16 *Now* (#30) and *A Streetcar Named Desire* (#47). Quotes from three of Mr. Brando's  
 17 films are ranked within AFI's Top 100 Movie Quotes of all time, including:

| Rank | Film                          | Quote  |
|------|-------------------------------|--|
| #2   | <i>The Godfather</i>          | "I'm going to make him an offer he can't refuse."  |
| #3   | <i>On The Waterfront</i>      | "You don't understand! I coulda had class. I coulda been a contender. I could've been somebody, instead of a bum, which is what I am." |
| #45  | <i>Streetcar Named Desire</i> | "Stella! Hey, Stella!"   |

1        24. On June 14, 1999, *Time* magazine listed Marlon Brando as one of the  
2 "Time 100 Persons of the Century."

3        25. Marlon Brando and the successors of the Brando IP Assets, including  
4 Brando Enterprises, have, on limited occasions, agreed to license certain Brando IP  
5 Assets (i) for commercial purposes after careful evaluation of the product or service  
6 that would be advertised; (ii) when the monetary compensation and other benefits  
7 were sufficient for the rights being exploited; and/or (iii) when the use fit within an  
8 overall publicity strategy for the commercialization of Marlon Brando's name,  
9 image, identity, persona, and legacy.

10        26. In recent years, Plaintiff has entered into licensing agreements with  
11 leading international brands and companies for the use of Marlon Brando's name,  
12 image and/or trademark, for which Plaintiff has received licensing revenues.

## **DEFENDANTS' WRONGFUL CONDUCT**

14        27. Madonna is an internationally-recognized musician. One of Madonna's  
15 most popular and well-known songs, "Vogue", makes specific mention of several  
16 iconic motion picture celebrities, including "Marlon Brando." When Madonna  
17 performed the song "Vogue" during her live Super Bowl halftime show on February  
18 5, 2012, she used the image of Mr. Brando as set dressing. Rights were properly  
19 obtained from Brando Enterprises to license use of Mr. Brando's image during that  
20 **one**, single-use performance.

21       28. In or around early February 2012, Plaintiff entered into a fully-  
22 executed, single-use license agreement to permit Defendants to use Mr. Brando's  
23 image for no more than five (5) seconds during Madonna's Super Bowl  
24 performance, for a fee of \$3,750. That license expired on February 6, 2012.

25        29. In or around May 2012, Defendants, through their licensing agent,  
26 CMG Worldwide, Inc. (“CMG”), contacted Plaintiff’s licensing agent, Brand Sense,  
27 seeking to use the same image of Mr. Brando as part of Madonna’s worldwide Tour.  
28 Defendants requested permission to use Mr. Brando’s image (1) as set dressing

1 during the Tour performances, (2) in DVD and other recorded media for sale and  
2 distribution, and (3) in promotional materials. On information and belief,  
3 Madonna's Tour was to last approximately seven months (from late May through  
4 December 2012), visit numerous countries throughout four continents, and include  
5 nearly ninety (90) concerts.

6       30. CMG initially offered to pay Plaintiff a total of \$3,750 (the same  
7 amount that it paid for the single Super Bowl performance) to use Mr. Brando's  
8 image throughout the entire worldwide tour and as described above. CMG later  
9 increased that offer to \$5,000.

10      31. Discussions between CMG and Brand Sense lasted approximately two  
11 weeks, and on or about June 1, 2012, Brand Sense confirmed in writing to CMG that  
12 Plaintiff had refused Defendants' proposal because, among other things, the  
13 compensation offered was not commensurate with the extensive use of Mr. Brando's  
14 image contemplated by Defendants.

15      32. On or about June 22, 2012, CMG reiterated that it still wished to use  
16 Mr. Brando's image, as previously discussed, for \$5,000, and again inquired  
17 whether Plaintiff was willing to accept that offer. On or about June 24, 2012, Brand  
18 Sense reaffirmed once again that Plaintiff would not accept that offer and would *not*  
19 license the right to use Mr. Brando's image in Madonna's worldwide concert tour.

20      33. No contract was ever sent to Brando Enterprises, let alone executed,  
21 permitting Defendants to use Mr. Brando's image beyond Madonna's Super Bowl  
22 performance, including during any part of her worldwide concert tour.

23      34. Notwithstanding the foregoing, on information and belief, Defendants  
24 have intentionally and prominently used the name, identity, image, likeness,  
25 publicity rights, and trademarks of Mr. Brando, without permission, throughout  
26 Madonna's current Tour. Additionally, Plaintiff is informed and believes that  
27 Defendants intend to continue such infringing use throughout the remainder of the  
28

1 Tour, and in perpetuity with respect to recorded versions of the Tour that will be  
2 distributed, sold, or used for promotional purposes

3        35. Defendants have intentionally, negligently, and/or knowingly used the  
4 Brando IP Assets for the purpose of attracting attention to the Tour, to the individual  
5 concerts, and to the song “Vogue” itself, and for the purpose of enhancing the  
6 advertising and marketing thereof.

7       36. Defendants, without any right, title or authorization, have  
8 misappropriated and continue to misappropriate Plaintiff's Brando IP Assets and the  
9 resulting success and popularity of Marlon Brando by unlawfully using his image,  
10 publicity rights, and trademarks for the aforesaid commercial purposes.

## **FIRST CAUSE OF ACTION**

### **(Misappropriation of Right of Publicity**

## **California Civil Code §3344.1 – Against All Defendants)**

14       37. Plaintiff repeats, realleges, adopts and incorporates each and every  
15 allegation contained in paragraphs 1-36, inclusive, as though fully set forth herein.

16       38. The conduct of Defendants, as alleged hereinabove, constitutes a  
17 violation of Section 3344.1 of the California Civil Code, due to the knowing and  
18 unauthorized use of Marlon Brando's identity, image or likeness for commercial  
19 purposes, which have substantial commercial value.

20       39. As a direct and proximate result of the aforesaid wrongful acts of  
21 Defendants, Plaintiff has been damaged in an amount that is not yet fully  
22 ascertainable, but which exceeds the jurisdictional minimum of this Court. When  
23 Plaintiff has ascertained the full amount of its damages, it will seek leave of Court to  
24 amend this Complaint accordingly.

25       40. As a direct and proximate result of the aforesaid wrongful acts of  
26 Defendants, Plaintiff has incurred, and will continue to incur, substantial attorneys'  
27 fees and costs. Plaintiff is entitled to an award of its attorneys' fees and costs

1 incurred in connection with this action pursuant to Section 3344.1(a)(1) of the  
2 California Civil Code.

3        41. By reason of the aforesaid wrongful acts of Defendants, in addition to  
4 the relief sought hereinabove, Plaintiff is entitled to an accounting of all of  
5 Defendants' revenues and profits associated with the unauthorized use of Marlon  
6 Brando's identity, image or likeness, and to an award of all such sums. By reason of  
7 Defendants' wrongful acts as alleged hereinabove, Defendants are involuntary  
8 trustees holding all such sums in their possession under a constructive trust for the  
9 benefit of Plaintiff with a duty to transfer the same to Plaintiff forthwith.

10       42. Plaintiff is informed and believes, and based thereon alleges, that  
11 Defendants, in doing the things herein alleged, acted willfully, maliciously, and  
12 oppressively, and with full knowledge of the adverse effects of their actions on  
13 Plaintiff, and with willful and deliberate disregard for the consequences to Plaintiff.  
14 By reason thereof, Plaintiff is entitled to recover punitive and exemplary damages  
15 from Defendants in an amount to be determined at the time of trial.

16       43. Plaintiff also seeks a preliminary and permanent injunction to prohibit  
17 Defendants from any further commercial use of the publicity rights of the late  
18 Marlon Brando, including his name, photograph, likeness, image or voice.

## **SECOND CAUSE OF ACTION**

**(Trademark Infringement / Trade Dress Infringement / False Association**

## Lanham Act, 15 U.S.C. §1125(a) – Against All Defendants)

22 44. Plaintiff repeats, realleges, adopts and incorporates each and every  
23 allegation contained in paragraphs 1-43, inclusive, as though fully set forth herein.

24        45. The Marlon Brando name and associated trademarks and trade dress  
25 have been extensively advertised and promoted throughout the world for over 50  
26 years in connection with Mr. Brando's entertainment and related services, and as a  
27 result of this advertising and promotion, the "Brando" name and associated  
28 trademarks and trade dress are recognized throughout worldwide trading areas and

1 channels of trade as famous and distinctive, and are identified by the purchasing  
2 public with Plaintiff. Plaintiff's trademarks and trade dress are famous and  
3 distinctive within the meaning of U.S. trademark law, including 15 U.S.C. §§1125  
4 and 1127.

5       46. Defendants' use, and continuing use, in interstate commerce of  
6 Plaintiff's trademarks and trade dress in connection with the Tour, sale and  
7 distribution of recorded versions of the Tour, and promotional/marketing materials,  
8 constitutes a violation of 15 U.S.C. §1125(a), in that it creates a false association  
9 between Mr. Brando and Defendants, which is likely to confuse, mislead, or deceive  
10 the consuming public and trade by creating the false impression that the infringing  
11 use of Plaintiff's trademarks and trade dress were approved, sponsored, endorsed,  
12 and/or are in some way affiliated with Marlon Brando and/or Plaintiff.

13       47. As a direct and proximate result of the conduct of Defendants, Plaintiff  
14 is entitled pursuant to 15 U.S.C. §1117(a) to the recovery of: (1) Defendants'  
15 profits related to the infringing use; (2) any damages sustained by Plaintiff as a  
16 result of Defendants' conduct, the precise amount of which shall be established by  
17 Plaintiff at trial; and (3) Plaintiff's costs of suit.

18       48. As a direct and proximate result of the conduct of Defendants, Plaintiff  
19 is entitled, pursuant to 15 U.S.C. §1117(c), to the recovery of statutory damages of  
20 One Hundred Thousand Dollars (\$100,000) for *each non-willful* use, per mark, per  
21 type of goods sold, offered for sale, or distributed.

22       49. Plaintiff is informed and believes, and based thereon alleges, that  
23 Defendants committed the acts alleged above with knowledge of Plaintiff's rights,  
24 and with the willful intent to trade on Plaintiff's valuable trademarks. As such, this  
25 case is exceptional under 15 U.S.C. §1117(a)(3), thereby entitling Plaintiff to the  
26 recovery of its attorneys' fees and the recovery of treble damages pursuant to 15  
27 U.S.C. §1117(b); and also statutory damages of One Million Dollars (\$1,000,000)

28

- 1 for *each willful* use, per mark, per type of goods sold, offered for sale, or distributed;
- 2 and also to the recovery of Plaintiff's attorneys' fees.

3       50. Defendants' wrongful acts will continue unless enjoined by this Court.  
4 Plaintiff has no adequate remedy at law and is suffering irreparable harm and  
5 damage as a result of the aforesaid acts of Defendants in an amount thus far not  
6 determined. Accordingly, Plaintiff is entitled to preliminary and permanent  
7 injunctive relief.

## **THIRD CAUSE OF ACTION**

**(Trademark Infringement – Dilution, Lanham Act, 15 U.S.C. §1125(c)  
Against All Defendants)**

11       51. Plaintiff repeats, realleges, adopts and incorporates each and every  
12 allegation contained in paragraphs 1-49, inclusive, as though fully set forth herein.

13       52. Plaintiff is informed and believes and based thereon alleges that  
14 Defendants' activities were conducted with full recognition of Plaintiff's ownership  
15 and use of the trademarks and trade dress described herein in worldwide trading  
16 areas and channels of trade. Defendants' use commenced many years after  
17 Plaintiff's trademarks and trade dress had become famous. Defendants' activities  
18 have and will continue to cause dilution of the distinctive quality of the trademarks  
19 and trade dress by lessening and diluting their capacity to identify and distinguish  
20 the entertainment and related services associated with Marlon Brando, to the  
21 damage and harm of Plaintiff, in violation of the Federal Trademark Dilution Act of  
22 1995, 15 U.S.C. §1125(c)(1).

23       53. The activities of Defendants as alleged above have caused and will  
24 cause irreparable harm to Plaintiff, for which it has no adequate remedy at law in  
25 that: (i) if the wrongful conduct continues, Plaintiff's trademarks risk further  
26 dilution; and (ii) Defendants' wrongful conduct, and the damages resulting to  
27 Plaintiff, are continuing. Accordingly, Plaintiff is entitled to preliminary and  
28 permanent injunctive relief pursuant to 15 U.S.C. §1125(c)(2).

1       54. Plaintiff is informed and believes, and based thereon alleges, that  
 2 Defendants have committed the acts alleged above: (1) with previous knowledge of  
 3 Plaintiff's prior right to and use of Plaintiff's trademarks and trade dress; (2) with  
 4 the willful intent to trade on Mr. Brando's and Plaintiff's good will and reputation;  
 5 and (3) with the willful intent to cause confusion, mistake, or deception. As a result,  
 6 Plaintiff is entitled, pursuant to 15 U.S.C. §1117(a), to treble damages, statutory  
 7 damages, and the recovery of its attorneys' fees.

8       55. Defendants' wrongful acts will continue unless enjoined by this Court.  
 9 Plaintiff has no adequate remedy at law and is suffering irreparable harm and  
 10 damage as a result of the aforesaid acts of Defendants in an amount thus far not  
 11 determined. Accordingly, Plaintiff is entitled to preliminary and permanent  
 12 injunctive relief.

13

14       WHEREFORE, Plaintiff prays for judgment against Defendants, and each of  
 15 them, jointly and severally, as follows:

16       **AS TO THE FIRST CAUSE OF ACTION:**

17       1. General and special damages in accordance with proof at trial, together  
 18 with interest thereon at the legal rate;

19       2. An award of the revenues and profits received by Defendants as a result  
 20 of the unauthorized use of Marlon Brando's image and/or other publicity rights;

21       3. Exemplary and punitive damages in an amount according to proof at  
 22 the time of trial;

23       4. Imposition of a constructive trust on all monies and sums received by  
 24 Defendants as a result of their misappropriation of the Marlon Brando publicity  
 25 rights (including, without limitation name, image, identity, likeness or persona),  
 26 with interest thereon at the legal rate;

27       5. An award of Plaintiff's attorneys' fees and costs;

28

1       6.     Preliminary and permanent injunction prohibiting Defendants and their  
2 affiliated companies from any further use of Mr. Brando's image or likeness, and  
3 associated publicity rights, without Plaintiff's express written permission in  
4 advance.

## **AS TO THE SECOND AND THIRD CAUSES OF ACTION:**

- 6        1. General and special damages in accordance with proof at trial, together  
7 with interest thereon at the legal rate;

8        2. An award of the revenues and profits received by Defendants as a result  
9 of the unauthorized use of Plaintiff's trademarks and trade dress;

10      3. Treble damages;

11      4. Statutory damages in the maximum amount available by law;

12      5. An award of Plaintiff's attorneys' fees and costs;

13      6. Preliminary and permanent injunction prohibiting Defendants and their  
14 affiliated companies from any further use of Plaintiff's trademarks and trade dress  
15 without Plaintiff's express written permission in advance.

**AS TO ALL CAUSES OF ACTION:**

- 17       1. For all costs of suit incurred herein; and  
18       2. For such other and further relief as the Court may deem to be just and  
19 proper.

21 | DATED: October 18, 2012

**WOLF, RIFKIN, SHAPIRO,  
SCHULMAN & RABKIN, LLP**

By:

CHARLES J. HARDER  
Attorneys for Plaintiff  
BRANDO ENTERPRISES, L.P.

1                           **DEMAND FOR JURY TRIAL**  
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3  
4 Plaintiff hereby demands a trial by jury.  
5

6  
7 DATED: October 18, 2012  
8

9                           WOLF, RIFKIN, SHAPIRO,  
10                           SCHULMAN & RABKIN, LLP  
11

12 By:   
13

14                           CHARLES J. HARDER  
15                           Attorneys for Plaintiff  
16                           BRANDO ENTERPRISES, L.P.  
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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

**NOTICE OF ASSIGNMENT TO UNITED STATES MAGISTRATE JUDGE FOR DISCOVERY**

This case has been assigned to District Judge Gary A. Feess and the assigned discovery Magistrate Judge is Victor B. Kenton.

The case number on all documents filed with the Court should read as follows:

**CV12- 8994 GAF (V ркx)**

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge

**NOTICE TO COUNSEL**

*A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).*

Subsequent documents must be filed at the following location:

Western Division  
312 N. Spring St., Rm. G-8  
Los Angeles, CA 90012

Southern Division  
411 West Fourth St., Rm. 1-053  
Santa Ana, CA 92701-4516

Eastern Division  
3470 Twelfth St., Rm. 134  
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

Charles J. Harder, Esq. (State Bar #18593)  
 Joshua A. Shapiro, Esq. (State Bar #229741)  
 Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP  
 11400 W. Olympic Blvd., 9th Floor  
 Los Angeles, California 90064-1582  
 Tel: 310-478-4100  
 Fax: 310-479-1422

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

BRANDO ENTERPRISES, L.P., a Delaware limited partnership,

PLAINTIFF(S),  
v.  
MADONNA LOUISE CICCONE (p/k/a "Madonna"),  
an individual; BHAKTI TOURING, INC., a Nevada corporation; and DOES 1-10, inclusive,

CASE NUMBER

**CV 12-8994-GAF(VBK)**

DEFENDANT(S).

**SUMMONS**

TO: DEFENDANTS MADONNA LOUISE CICCONE (p/k/a "Madonna"), an individual; BHAKTI TOURING, INC., a Nevada corporation; and DOES 1-10, inclusive

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it), you must serve on the plaintiff an answer to the attached  complaint         amended complaint  counterclaim  cross-claim or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff's attorney, Charles J. Harder, Esq., whose address is Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP, 11400 W. Olympic Blvd., Ninth Floor, Los Angeles, CA 90064-1582. If you fail to do so, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

OCT 18 2012  
Dated: \_\_\_\_\_

Clerk, U.S. District Court

By: \_\_\_\_\_

*Marilyn A. Stein*  
Deputy Clerk

*(Seal of the Court)*

[Use 60 days if the defendant is the United States or a United States agency, or is an officer or employee of the United States. Allowed 60 days by Rule 12(a)(3).]



**I (a) PLAINTIFFS** (Check box if you are representing yourself )

BRANDO ENTERPRISES, L.P., a Delaware limited partnership

**DEFENDANTS**

MADONNA LOUISE CICCONE (p/k/a "Madonna"), an individual; BHAKTI TOURING, INC., a Nevada corporation; and DOES 1-10, inclusive

**(b) Attorneys** (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.)

Charles J. Harder, Esq. (State Bar #198593)

WOLF, RIFKIN, SHAPIRO, SCHULMAN & RABKIN, LLP  
11400 W. Olympic Blvd., 9th Floor  
Los Angeles, California 90064-1582  
Tel: 310-478-4100

## Attorneys (If Known)

Unknown

**II. BASIS OF JURISDICTION** (Place an X in one box only.)

- |  |  |
|--|--|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)   |

**III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only**  
(Place an X in one box for plaintiff and one for defendant.)

Citizen of This State

- |   |                            |                            |                            |
|---|----------------------------|----------------------------|----------------------------|
| <b>PTF</b>  | <b>DEF</b>                 | <b>PTF</b>                 | <b>DEF</b>                 |
| <input type="checkbox"/> 1                                    | <input type="checkbox"/> 1 | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Incorporated or Principal Place of Business in this State     |                            |                            |                            |
| <input type="checkbox"/> 2                                    | <input type="checkbox"/> 2 | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Incorporated and Principal Place of Business in Another State |                            |                            |                            |
| <input type="checkbox"/> 3                                    | <input type="checkbox"/> 3 | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
| Citizen or Subject of a Foreign Country                       |                            | Foreign Nation             |                            |

**IV. ORIGIN** (Place an X in one box only.)

- |  |   |  |   |   |  |   |
|--|---|--|---|---|--|---|
| <input checked="" type="checkbox"/> 1 Original | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify): | <input type="checkbox"/> 6 Multi-District Litigation | <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judge |
|--|---|--|---|---|--|---|

**V. REQUESTED IN COMPLAINT: JURY DEMAND:**  Yes  No (Check 'Yes' only if demanded in complaint.)CLASS ACTION under F.R.C.P. 23:  Yes  No**MONEY DEMANDED IN COMPLAINT:** \$ to be determined**VI. CAUSE OF ACTION** (Cite the U. S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
Violation of Right of Publicity; Infringement of Trademark, Trade Dress, and False Association (15 U.S.C. § 1125(a)); and Dilution (15 U.S.C. § 1125(c))**VII. NATURE OF SUIT** (Place an X in one box only.)

| OTHER STATUTES   | CONTRACT   | TORTS PERSONAL INJURY   | TORTS PERSONAL PROPERTY  | PRISONER PETITIONS   | LABOR   |
|--|--|---|--|--|---|
| <input type="checkbox"/> 400 State Reapportionment                                     | <input type="checkbox"/> 110 Insurance   | <input type="checkbox"/> 310 Airplane   | <input type="checkbox"/> 370 Other Fraud                             | <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus    | <input type="checkbox"/> 710 Fair Labor Standards Act               |
| <input type="checkbox"/> 410 Antitrust   | <input type="checkbox"/> 120 Marine  | <input type="checkbox"/> 315 Airplane Product Liability   | <input type="checkbox"/> 371 Truth in Lending                        | <input type="checkbox"/> 520 General                                     | <input type="checkbox"/> 720 Labor/Mgmt. Relations                  |
| <input type="checkbox"/> 430 Banks and Banking   | <input type="checkbox"/> 130 Miller Act  | <input type="checkbox"/> 320 Assault, Libel & Slander   | <input type="checkbox"/> 380 Other Personal Property Damage          | <input type="checkbox"/> 530 Death Penalty                               | <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act |
| <input type="checkbox"/> 450 Commerce/ICC Rates/etc.                                   | <input type="checkbox"/> 140 Negotiable Instrument                               | <input type="checkbox"/> 330 Fed. Employers' Liability  | <input type="checkbox"/> 385 Property Damage Product Liability       | <input type="checkbox"/> 540 Mandamus/ Other                             | <input type="checkbox"/> 740 Railway Labor Act                      |
| <input type="checkbox"/> 460 Deportation   | <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment   | <input type="checkbox"/> 340 Marine   | <input type="checkbox"/> 22 Appeal 28 USC 158                        | <input type="checkbox"/> 550 Civil Rights                                | <input type="checkbox"/> 790 Other Labor Litigation                 |
| <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations            | <input type="checkbox"/> 151 Medicare Act  | <input type="checkbox"/> 345 Marine Product Liability   | <input type="checkbox"/> 423 Withdrawal 28 USC 157                   | <input type="checkbox"/> 555 Prison Condition                            | <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act           |
| <input type="checkbox"/> 480 Consumer Credit   | <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) | <input type="checkbox"/> 350 Motor Vehicle  | <b>BANKRUPTCY</b>  | <b>FORFEITURE / PENALTY</b>  | <b>PROPERTY RIGHTS</b>  |
| <input type="checkbox"/> 490 Cable/Sat TV  | <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits       | <input type="checkbox"/> 355 Motor Vehicle Product Liability                                    | <input type="checkbox"/> 22 Appeal 28 USC 158                        | <input type="checkbox"/> 610 Agriculture                                 | <input type="checkbox"/> 820 Copyrights                             |
| <input type="checkbox"/> 810 Selective Service   | <input type="checkbox"/> 160 Stockholders' Suits                                 | <input type="checkbox"/> 360 Other Personal Injury  | <input type="checkbox"/> 423 Withdrawal 28 USC 157                   | <input type="checkbox"/> 620 Other Food & Drug                           | <input type="checkbox"/> 830 Patent                                 |
| <input type="checkbox"/> 850 Securities/Commodities/ Exchange                          | <input type="checkbox"/> 190 Other Contract                                      | <input type="checkbox"/> 362 Personal Injury-Med Malpractice                                    | <b>CIVIL RIGHTS</b>  | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 | <input type="checkbox"/> 840 Trademark                              |
| <input type="checkbox"/> 875 Customer Challenge 12 USC 3410                            | <input type="checkbox"/> 195 Contract Product Liability                          | <input type="checkbox"/> 365 Personal Injury-Product Liability                                  | <input type="checkbox"/> 441 Voting                                  | <b>SOCIAL SECURITY</b>   | <b>61 HIA(1395ff)</b>   |
| <input type="checkbox"/> 890 Other Statutory Actions                                   | <input type="checkbox"/> 196 Franchise   | <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability                         | <input type="checkbox"/> 442 Employment                              | <input type="checkbox"/> 630 Liquor Laws                                 | <input type="checkbox"/> 862 Black Lung (923)                       |
| <input type="checkbox"/> 891 Agricultural Act  | <b>REAL PROPERTY</b>   | <b>IMMIGRATION</b>  | <input type="checkbox"/> 443 Housing/Accommodations                  | <input type="checkbox"/> 640 R.R. & Truck                                | <input type="checkbox"/> 863 DIWC/DIWW 405(g))                      |
| <input type="checkbox"/> 892 Economic Stabilization Act                                | <input type="checkbox"/> 210 Land Condemnation                                   | <input type="checkbox"/> 462 Naturalization Application   | <input type="checkbox"/> 444 Welfare                                 | <input type="checkbox"/> 650 Airline Regs                                | <input type="checkbox"/> 864 SSID Title XVI                         |
| <input type="checkbox"/> 893 Environmental Matters                                     | <input type="checkbox"/> 220 Foreclosure   | <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee                                       | <input type="checkbox"/> 445 American with Disabilities - Employment | <input type="checkbox"/> 660 Occupational Safety /Health                 | <input type="checkbox"/> 865 RSI (405(g))                           |
| <input type="checkbox"/> 894 Energy Allocation Act                                     | <input type="checkbox"/> 230 Rent Lease & Ejectment                              | <input type="checkbox"/> 465 Other Immigration Actions  | <input type="checkbox"/> 446 American with Disabilities - Other      | <input type="checkbox"/> 690 Other                                       | <b>FEDERAL TAX SUITS</b>  |
| <input type="checkbox"/> 895 Freedom of Info. Act                                      | <input type="checkbox"/> 240 Torts to Land                                       | <b>AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.</b> | <input type="checkbox"/> 440 Other Civil Rights                      | <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)         | <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609            |
| <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice | <input type="checkbox"/> 245 Tort Product Liability                              |   |  |  |   |
| <input type="checkbox"/> 950 Constitutionality of State Statutes                       | <input type="checkbox"/> 290 All Other Real Property                             |   |  |  |   |

FOR OFFICE USE ONLY: Case Number: CV12-8994

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed?  No  Yes

If yes, list case number(s): \_\_\_\_\_

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case?  No  Yes

If yes, list case number(s): \_\_\_\_\_

**Civil cases are deemed related if a previously filed case and the present case:**

(Check all boxes that apply)  A. Arise from the same or closely related transactions, happenings, or events; or

B. Call for determination of the same or substantially related or similar questions of law and fact; or

C. For other reasons would entail substantial duplication of labor if heard by different judges; or

D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

**IX. VENUE:** (When completing the following information, use an additional sheet if necessary.)

- (a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named plaintiff resides.  
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

|                                       |   |
|---------------------------------------|---|
| County in this District: <sup>*</sup> | California County outside of this District; State, if other than California; or Foreign Country |
| Los Angeles                           | Delaware  |

- (b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH named defendant resides.  
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

|  |   |
|--|---|
| County in this District: <sup>*</sup>                                    | California County outside of this District; State, if other than California; or Foreign Country |
| Madonna Louise Ciccone: Los Angeles<br>Bhakti Touring, Inc.: Los Angeles | Madonna Louise Ciccone: New York<br>Bhakti Touring, Inc.: Nevada                                |

- (c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which EACH claim arose.  
**Note: In land condemnation cases, use the location of the tract of land involved.**

|                                       |   |
|---------------------------------------|---|
| County in this District: <sup>*</sup> | California County outside of this District; State, if other than California; or Foreign Country |
| Los Angeles                           |   |

\* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties

Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):

Date October 18, 2012

Charles J. Harder

**Notice to Counsel/Parties:** The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3 -1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

| Nature of Suit Code | Abbreviation | Substantive Statement of Cause of Action   |
|---------------------|--------------|--|
| 861                 | HIA          | All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b)) |
| 862                 | BL           | All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)  |
| 863                 | DIWC         | All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g))   |
| 863                 | DIWW         | All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g))  |
| 864                 | SSID         | All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.  |
| 865                 | RSI          | All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g))   |